

PLANNING COMMISSION MEETING OF AUGUST 22, 2005

2005-0512 – Appeal of a decision by the Director of Community Development denying a Use Permit on a 1.2-acre site to allow existing educational use in an industrial building. The property is located at **1140 W. Evelyn Avenue** (near Bernardo Avenue) in an M-S (Industrial and Service) Zoning District. (APN: 161-31-035) JM **(Continued from August 8, 2005)**

Jamie McLeod, Associate Planner, presented the staff report. The applicant is requesting a use permit for an after-school program and summer program. The Administrative Hearing officer denied the permit as the site is located in an industrial zone. The two primary issues are the compatibility of use in an industrial zoned area and insufficient parking. The applicant has provided a parking management plan with an agreement to use the parking lot of a church about a mile away. Staff is concerned that the church is too far away to make this a feasible plan, and noted that the applicant indicates they have succeeded with a similar-type parking plan in other cities. Staff recommends upholding the decision of the Administrative Hearing Officer and deny the Use Permit and the appeal. If the Planning Commission approves the appeal, there are recommended Conditions of Approval (COA) provided.

Comm. Moylan asked why the existing job training center use adjacent to the proposed site is okay and this educational use is not. Staff said the existing educational use has been in place for a long time and serves primarily adults. The proposed use is for children and staff is typically concerned about children in an industrial area. The summer program would have children on-site for long periods of time.

Chair Hungerford opened the public hearing.

Rob Moore, appellant and owner/applicant, spoke regarding the structure of the buildings and said that these are not typical industrial buildings. He said the existing educational use and this proposed use would be separated by two, four-inch concrete walls from the other two units in the park. He said that when looking at the zoning of the City, that this site is on the edge of the industrial zone and if an educational use was going to be approved in an industrial area that this would be an ideal area to do that.

Yen Sing Chang, with BT Commercial, representing the applicant spoke regarding the proposed uses for the site. He acknowledged that parking is an issue for the Planning Commission, but that the applicant is proposing a Transportation Management Plan to address this concern and reiterated what Mr. Moore said regarding this zoning being right on the edge of residential which would make it an ideal location for an educational center.

Harriet Rowe, a Sunnyvale resident, spoke against allowing non-industrial uses in industrial areas. She recently spoke with Bob Paternoster, the City's Community Development Department Director, who said staff is looking into putting a moratorium on requests similar to this until a related Study Issue is completed. She expressed that allowing non-industrial uses, even if they are on the edge of an industrial zoned area, chips away at our industrial areas and she would like to see the Planning Commission support the idea of the moratorium.

Jessica Lin, a parent of children who attend the proposed school in its current location, spoke in favor of the project. She spoke to the value of the school for her family and would like to see the Planning Commission approve the project.

Pastor Herbert Wu, a Sunnyvale resident and pastor of a small church, said several years ago he tried to find a location to start a small church in Sunnyvale, but could not. He encouraged the Planning Commission to support this project as a way of "growing the people" in Sunnyvale and not just industry. He said there are very few areas where new places of assembly can go and feels these types of uses are important for the long-term planning of Sunnyvale.

Mr. Chang added that the applicant would comply with all the COAs if a conditional permit were allowed for this use.

Ms. Ryan commented that in the past a way of approving non-industrial uses in industrial areas is to approve them with an imposed time limit. Staff did not include a time limit in these COAs. Ms. Ryan said if the Planning Commission is inclined to approve this appeal that she suggests a time limit be imposed to be consistent with similar projects.

Mr. Moore asked for clarification of what this time limit on the use would be. Chair Hungerford said that in the past it has been a three-year time limit and then the use is reviewed. The appellant said this would be a hardship for the applicant because if the use is approved they would like to buy the condominium. If a time limit were placed on the project, it may effectively be the same as a denial.

Chair Hungerford closed the public hearing.

Comm. Fussell moved Alternative 1, to uphold the Administrative Hearing Officer's decision and deny the Use Permit. Comm. Simons seconded the motion.

Comm. Fussell said that he could not make the findings. He feels that there are too many students using too small of a space, no exterior space and the chief concerns are limiting other tenants from using their facility for industrial use and potentially placing children at risk.

Comm. Simons said he concurs with Comm. Fussell and could not make the findings.

Final Action:

Comm. Fussell made a motion on Item 2005-0512 for Alternative 1, to uphold the Administrative Hearing Officer's decision and deny the Use Permit. Comm. Simons seconded.

Motion carried unanimously, 7-0.

This item is appealable to the City Council no later than September 6, 2005.